

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.93 OF 2007

IN

L.A.R. NO.152 OF 1988

Pune Municipal Corporation through
the Municipal Commissioner. Appellant

v/s.

1.Dagad Family Trust & ors. Opponents
(Org.Claimants/
Respondents
2.The State of Maharashtra. .. Orig. Opponent

Mr.R.M.Pethe i/by Mr.R.G. Ketkar for Appellants.

Mr.Y.M. Nakhwa, AGP for Respondent No.2.

Mr.S.S.Hardikar for Respondent Nos.1(i) to 1 (iv).

W I T H

FIRST APPEAL NO.2236 OF 2006

In

L.A.R. No.152 of 1988

The State of Maharashtra Appellant

(Org.Opponent)

v/s.

Dugad Family Trust & ors. .. Respondents
(org.Claimants)

[Mr.Y.M.](#) Nakhwa AGP for Appellant.

[Mr.S.S.Hardikar](#) for RespondentNos.1 to 4.

CORAM : ROSHAN DALVI, J.

Dated : 12th June, 2007

P.C. :

1.The Appellant in the above Appeal No.93 of 2007 is the party interested for whom the acquisition has been made. They have not been made party in the Reference. As per the mandate of the Apex Court in the case of **M/s.Neyvely Lignite Corpn. Ltd. vs. Spl. Tahsildar (Land Acquisition), Neyvely** reported in **AIR 1995 S.C. 1004**, they are entitled to be impleaded in the Reference and if not impleaded, they are entitled to file an Appeal or a Writ Petition against an enhanced Award. The Appellants' Advocates state that the Appellants propose to lead evidence on the question of compensation in the Trial Court.

2. The impugned order is also challenged by the State in First Appeal No.2236 of 2006. All the Advocates agree that the same impugned order in both the Appeals may be reconsidered by the Reference Court. The Advocates also agree that the evidence, which has already been recorded, can be used by the Reference Court.
3. The Appellant in First Appeal No.93 of 2007 shall lead any further evidence. The consolidated evidence shall be considered by the Trial Court to determine afresh the compensation payable to the Claimants.
4. The impugned judgment and order dated 31.8.1996 is set aside and the Reference is remanded for recording additional evidence and fresh determination thereon. Both the Appeals disposed of accordingly.

(ROSHAN DALVI, J.)